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SUBJECT: RELIGIOUS FREEDOM -- ACTIVISTS TAKE TO THE COURTS
TO OVERTURN BLASPHEMY LAW

¶1. (U) SUMMARY: Human Rights activists are pressing the Indonesian Constitutional Court to overturn a controversial religious blasphemy law. Lawyers argue that the law limits religious expression and contradicts the freedoms guaranteed in the Indonesian Constitution. In the past, the GOI--under pressure from mainstream Muslim organizations and other groups--has used provisions of the blasphemy law to justify limiting the religious activities of certain minority groups and individuals. Overturning the law--which is possible given the Constitutional Court's record of activist jurisprudence--would go a long way toward solidifying Indonesia's reputation for diversity and tolerance. END SUMMARY.

ARGUMENTS BEFORE CONSTITUTIONAL COURT

¶2. (U) Religious freedom is in the news in Indonesia. On November 17, leading human rights lawyers formally petitioned the Indonesian Constitutional Court to overturn a controversial law which they say discriminates and limits religious freedom. (Note: The Constitutional Court is a court of first instance. It shares authority over interpretations of Indonesian law and regulations with the Supreme Court.) The law in question, entitled "on the Prevention of Blasphemy and Abuse of Religion," is based on a 1965 Suharto-era decree against "misusing and/or denigrating religion." Lawyers argued before the Court that the law limits religious expression and contradicts the freedoms guaranteed in the Indonesian Constitution.

¶3. (U) Under the law, "spreading religious hatred, heresy, and blasphemy" is punishable by up to five years in prison. The law is rarely applied. Although the law applies to all officially recognized religions (such as Islam, Christianity and Buddhism), the few cases in which it has been enforced have almost always involved alleged blasphemy or heresy against Islamic Sunni norms. According to human rights activists, the law--more generally--has been used as the first step toward banning or limiting the freedoms of smaller, minority religious communities in Indonesia, and thus has had "a chilling effect."

¶4. (U) In terms of examples of the law's application: using the blasphemy law as its legal basis, the GOI issued a decree last year that stopped just short of banning the minority Ahmadiyah sect. The decree "warns" members of Ahmadiyah against making their own interpretations of Islam and against spreading their beliefs. Several Ahmadiyah houses of worship have been closed and some Ahmadiyah members feel that they are not free to worship their faith, although others say they can work within the current system.

¶5. (U) The law is also sometimes applied to individuals. In June, for example, a Jakarta court found Lia Eden, the leader

of a small religious sect, guilty of blasphemy and sentenced her to two years and six months in prison. Eden claims to be the reincarnation of the angel Gabriel and publicly stated that Islam and other religions "must" be disbanded. This was the second time that Eden has been tried on blasphemy charges. She was arrested for the same crime in 2006, sentenced to two years in prison and subsequently released.

GOVERNMENT ON THE DEFENSE

¶6. (U) The government is defending the law. GOI officials have underscored that the government's chief interest is to make sure that religious sects do not act against "public order," e.g., by undertaking activities that cause others in society "anger or distress." With some justification in this developing country (given periodic flare-ups of religious-based tension), the Indonesian government asserts that it has difficulty controlling anger among its citizens when "they feel that their religion has been challenged."

COURT COULD OVERTURN LAW

¶7. (U) Overturning the law would go a long way toward solidifying Indonesia's reputation for diversity and tolerance. The Constitutional Court has a record of activist jurisprudence and could well overturn the law. If that happens, many Muslim groups--including those in the mainstream--will no doubt vociferously complain. That said, it is positive that such issues are being debated in the legal system and not on the streets.

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